



**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

JOSEPH SHORTAL; JOHN
STAMATIS; PAUL BARDEN;
KENNETH VAUGHAN; MICHAEL
SIMON,

Plaintiffs,

vs.

HESSGEN, INC.; BRIAN HESS;
ANDY MILLS; DOES 1-10, inclusive,

Defendants.

HESSGEN, INC.; BRIAN HESS,

Cross Claimants,

vs.

JACK MOTT; ANDY MILLS; ROES 1-
10, inclusive,

Cross Defendants.

ANDY MILLS,

Cross Claimant,

vs.

GEORGE MALASEK; DAVID
RUTKOSKE; BRIAN HESS;
HESSGEN, INC.; JACK MOTT,

Cross Defendants.

HAYES, Judge:

On November 28, 2012, Plaintiffs initiated this action by filing a Complaint in this Court against Defendants Hessgen, Inc., Brian Hess, and Andy Mills. (ECF No. 1). On February 11, 2013, Defendants Hessgen, Inc. and Brian Hess filed a Crossclaim against Andy Mills and Jack Mott. (ECF No. 16).

On June 11, 2013, La Jolla Law Group, attorney for Hessgen, Inc. and Brian Hess filed a Motion to Withdraw as Attorney. (ECF No. 41). The Court granted the motion, and ordered Brian Hess to notify the Court within sixty days as to whether he would proceed pro se or retain new counsel. *Id.* The Court also ordered Hessgen, Inc. to obtain new counsel and have counsel file a notice of appearance. *Id.* The docket reflects that Hessgen, Inc. and Brian Hess have not taken any action since their attorney withdrew as counsel on June 11, 2013.

On March 31, 2014, Jack Mott filed a Motion to Dismiss for Lack of Prosecution as to Hessgen, Inc. and Brian Hess's Crossclaim against Mott. (ECF No. 86).

On May 28, 2014, the Court issued an Order stating:

Pursuant to Local Rule 41.1, "[a]ctions or proceedings which have been pending in this court for more than six months, without any proceeding or discovery having been taken therein during such period, may, after notice, be dismissed by the court for want of prosecution." S.D. Cal. Civ. Local Rule 41.1; *see also* Fed. R. Civ. P. 41(b). It appearing to the Court that dismissal for want of prosecution may be appropriate in this case, Hessgen, Inc. and Brian Hess are hereby ORDERED TO SHOW CAUSE as to why their Crossclaim against Andy Mills and Jack Mott should not be dismissed without prejudice for failure to prosecute.

Hessgen, Inc. and Brian Hess shall file a written response to this ORDER TO SHOW CAUSE no later than fourteen (14) days from the date this Order is filed. If they do not respond, the Court will dismiss their Crossclaim without prejudice.

(ECF No. 90 at 1-2). To date, Hessgen, Inc. and Brian Hess have not responded to the Order to Show Cause.

IT IS HEREBY ORDERED that Hessgen, Inc. and Brian Hess's Crossclaim against Andy Mills and Jack Mott is DISMISSED without prejudice. (ECF No. 16).

IT IS FURTHER ORDERED that the Motion to Dismiss for Lack of Prosecution filed by Jack Mott is DENIED as moot. (ECF No. 86).

Date: _____

6/13/14



WILLIAM Q. HAYES
United States District Judge